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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,869	03/09/2004	Wen Hsiang Yang	LP4002-3850	1227

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EXAMINER
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WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/795,869

Applicant(s)

YANG, WEN HSIANG

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 4 and 5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

***Drawings***

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 is indefinite because it recites the cover twice in the body of the claim. The claim defines the cover as enclosing the elastic bags and then also recites that the cover encloses the yarn layer. It appears from the drawings and specification that only a single cover (80) exists that encloses both the yarn layer (90) and the bags (70). The applicant is requested to note that examination was completed assuming that claim 4 intends to claim only a single cover layer that encloses both the yarn layer and the bags.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Su et al. (4,815,737) in view of Smith (5,294,112). Regarding claim 4, Su discloses a baseball construction comprising a core (12), a bag (14) having an opening, a yarn layer (22) enclosing the bag, and a cover (30, 32) formed of two pieces having figure "8" shapes. Note column 2, lines 21-23 stating that the bag is made from a conventional plastic material. Thus, the bag is obviously formed from a material that is both elastic and waterproof. However, Su lacks the teaching for a plurality of bags surrounding the core.

Smith reveals a game ball construction including a core (11) and a plurality of bags (12-16) that have openings that do not overlap one another (note Figures 2-7). It would have been obvious to one of ordinary skill in the art to form the ball of Su with a plurality of bags in order to better reinforce the core of the ball and reduce the chance of breakage of the bag.

Regarding claim 5, the claim is rendered obvious by Su since Su provides a bag that does enclose the ball core.

### ***Response to Arguments***

Applicant's arguments filed April 4, 2005 have been fully considered but are not deemed to be persuasive. The applicant argues that the reference to Su lacks the teaching for two bags as instantly recited and thus, cannot be waterproof like the instant invention. However, this is not persuasive as the rejection is over the combination of Su in view of Smith. Smith teaches that it is known in the art of game balls to provide a plurality of bags surrounding the core in order to better reinforce the structure. It would have been obvious to one of ordinary skill in the art to provide a plurality of bags in order to better reinforce the core structure and ball of Su. Attention

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was also directed to Figures 2-7 of Smith showing that it is known to provide the bags so that their openings do not overlap one another.

Regarding applicant's argument that the combination of Su in view of Smith lacks the teaching for a yarn layer and cover, attention is directed to the basis for the rejection where Su provides a yarn layer (22) and a cover (30, 32) as recited.

Regarding claim 5, it is again noted that the claim uses conditional language "if" and therefore, the recitation is not being positively recited in the claims. In other words, the limitation is met by the combination of references when the condition is not met (where the bag does enclose the ball core). Therefore, the bag need not necessarily be of a size that is smaller than the core when the bag does not enclose the core.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

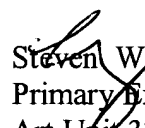
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Wednesday 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
June 6, 2005